

Exhibit 8

201.08 Continuation-in-Part Application [R-08.2017]

37 C.F.R. 1.78 Claiming benefit of earlier filing date and cross-references to other applications.

(d) *Claims under 35 U.S.C. 120, 121, 365(c), or 386(c) for the benefit of a prior-filed nonprovisional application, international application, or international design application.* An applicant in a nonprovisional application (including a nonprovisional application resulting from an international application or international design application), an international application designating the United States, or an international design application designating the United States may claim the benefit of one or more prior-filed copending nonprovisional applications, international applications designating the United States, or international design applications designating the United States under the conditions set forth in **35 U.S.C. 120, 121, 365(c), or 386(c)** and this section.

(2) Except for a continued prosecution application filed under § **1.53(d)**, any nonprovisional application, international application designating the United States, or international design application designating the United States that claims the benefit of one or more prior-filed nonprovisional applications, international applications designating the United States, or international design applications designating the United States must contain or be amended to contain a reference to each such prior-filed application, identifying it by application number (consisting of the series code and serial number), international application number and international filing date, or international registration number and filing date under § **1.1023**. If the later-filed application is a nonprovisional application, the reference required by this paragraph must be included in an application data sheet (§ **1.76(b)(5)**). The reference also must identify the relationship of the applications, namely, whether the later-filed application is a continuation, divisional, or continuation-in-part of the prior-filed nonprovisional application, international application, or international design application.

A continuation-in-part is an application filed during the lifetime of an earlier nonprovisional application, repeating some substantial portion or all of the earlier nonprovisional application and adding matter not disclosed in the earlier nonprovisional application. A continuation-in-part application may only be filed under **37 CFR 1.53(b)**. The continuation-in-part application must claim the benefit of the prior nonprovisional application under **35 U.S.C. 120, 121, 365(c), or 386(c)**. For more information on claiming the benefit of a prior nonprovisional application, see **MPEP § 211 et seq.** A continuation-in-part application CANNOT be filed as a continued prosecution application (CPA) under **37 CFR 1.53(d)**.

An application claiming the benefit of a provisional application under **35 U.S.C. 119(e)** should not be called a "continuation-in-part" of the provisional application because an application that claims benefit of a provisional application is a nonprovisional application of a provisional application, not a continuation, division, or continuation-in-part of the provisional application.

The mere filing of a continuation-in-part application does not itself create a presumption that the applicant acquiesces in any rejections which may be outstanding in the copending national nonprovisional application or applications upon which the continuation-in-part application relies for benefit.

A continuation-in-part application that has a sole inventor may also derive from an earlier application that has joint inventors and discloses only a portion of the subject matter of the later application, subject to the conditions set forth in [35 U.S.C. 120](#) and [37 CFR 1.78](#). Subject to the same conditions, a continuation-in-part application that has joint inventors may derive from an earlier application that has a sole inventor.

The Office does not need to make a determination as to whether the requirement of [35 U.S.C. 120](#) that the earlier nonprovisional application discloses the invention of the second application in the manner provided by [35 U.S.C. 112\(a\)](#) is met unless the filing date of the earlier nonprovisional application is relied upon in a proceeding before the Office. Accordingly, an alleged continuation-in-part application should be permitted to claim the benefit of the filing date of an earlier nonprovisional application if the alleged continuation-in-part application complies with the other requirements of [35 U.S.C. 120](#) and [37 CFR 1.78](#), such as:

- (A) The first application and the alleged continuation-in-part application were filed with the same inventor or at least one common joint inventor;
- (B) The alleged continuation-in-part application was "filed before the patenting or abandonment of or termination of proceedings on the first application or an application similarly entitled to the benefit of the filing date of the first application"; and
- (C) The alleged continuation-in-part application "contains or is amended to contain a specific reference to the earlier filed application." (For applications filed on or after September 16, 2012, the specific reference must be included in an application data sheet. For applications filed prior to September 16, 2012, the specific reference must be submitted either in the first sentence(s) of the specification or in an application data sheet (see [37 CFR 1.76\(b\)\(5\)](#)).)

See [MPEP § 211](#) et seq. for more information on claiming the benefit of a prior nonprovisional application.

For notation to be put in the file history by the examiner in the case of a continuation-in-part application see [MPEP § 202](#). See [MPEP § 708](#) for order of examination.

Use form paragraph [2.06](#) to remind applicant of possible continuation-in-part status.

¶ 2.06 Possible Status as Continuation-in-Part

This application repeats a substantial portion of prior Application No. [\[1\]](#), filed [\[2\]](#), and adds disclosure not presented in the prior application. Because this application names the inventor or at least one joint inventor named in the prior application, it may constitute a continuation-in-part of the prior application. Should applicant desire to claim the benefit of the filing date of the prior application, attention is directed to [35 U.S.C. 120](#), [37 CFR 1.78](#), and [MPEP § 211](#) et seq.

Examiner Note:

1. In brackets 1 and 2, insert the application number (series code and serial number) and filing date of the prior application, respectively.
2. This form paragraph should only be used if it appears that the application may qualify as a continuation-in-part, but no benefit claim has been properly established.

3 An application claiming the benefit of a provisional application under **35 U.S.C. 119(e)** should not be called a "continuation-in-part" of the provisional application.
